



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Proprietary Software Systems, Inc.--
Reconsideration
File: B-228395.2
Date: May 31, 1988

DIGEST

A request for reconsideration which does not indicate that a prior decision denying a protest was based on errors of fact or law is denied.

DECISION

Proprietary Software Systems, Inc., (PSS) requests reconsideration of our decision in Proprietary Software Systems, Inc., B-228395, Feb. 12, 1988, 88-1 CPD ¶ 143. We held in the decision that the Air Force properly awarded a contract to Software Engineering Associates under request for proposals (RFP) No. F33657-87-R-0024 after performing a cost/technical tradeoff analysis and concluding that SEA's acceptable low cost proposal represented the best overall value to the government. We deny the request for reconsideration.

In our decision, we concluded that the agency had reasonably evaluated SEA's and PSS's technical and cost proposals in accordance with the evaluation scheme set forth in the RFP. One of the many contentions raised in PSS's protest was that SEA's software engineers did not have knowledge of a particular computer language, i.e., Tool for Independent Language Translation (TILT), and thus were less qualified than PSS's software engineers. We found that the RFP did not require this particularized experience in TILT.

In its request for reconsideration, PSS argues that this finding is erroneous. In support of its position, PSS alleges that 40 percent of the software tools to be maintained and enhanced under this contract is written in TILT, and that the Linker--which combines all applications programs--is also written in TILT. Consequently, in its view, the software engineers are required to write computer programs in TILT and thus knowledge of this language is required.

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Notwithstanding PSS's arguments, it has not pointed to any RFP requirement that software engineers have knowledge of TILT. As discussed in our prior decision, PSS's relatively superior experience in the development of the particular software was specifically weighed by the source selection official who found PSS's modest technical advantage was outweighed by SEA's considerable cost advantage.

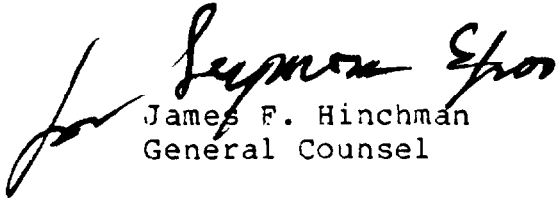
In our prior decision, we also denied PSS's protest that the Air Force failed to conduct a proper cost realism analysis of SEA's proposed costs. On reconsideration, PSS continues to allege that SEA's proposed cost was unrealistically low. According to the protester, it is unrealistic to assume that SEA can offer labor and computer time at a rate 19 percent less than the price of the previous contract which did not include computer time and which was awarded 5 years ago.

PSS essentially restates the arguments that it presented in its protest and which we addressed in our decision. We found, for example, that most of the difference in evaluated costs resulted from PSS's higher indirect costs rather than unrealistically low labor rates paid by SEA. While PSS continues to disagree with our conclusion that the agency's evaluation of cost proposals was proper, the protester's request for reconsideration provides no basis for us to disturb our prior decision.

Finally, PSS complains that it had not been furnished any of the technical evaluation documents which were provided to our Office in camera. The Air Force denied PSS's request for copies of various technical evaluation documents under the Freedom of Information Act (FOIA), 5 U.S.C. 552 (1982). Consequently, we considered in camera these documents to ascertain if the evaluation had a reasonable basis. See Universal Shipping Co., Inc., B-223905.2, Apr. 20, 1987, 87-1 CPD ¶ 424 at 4. However, our Office has no authority to determine what information an agency must disclose in connection with a party's request under FOIA; the party's recourse is to pursue the disclosure remedies under FOIA.^{1/} Government Systems Integration Corp., B-227065, Aug. 7, 1987, 87-2 CPD ¶ 137.

^{1/} For protests filed on or after January 15, 1988, protesters may request documents pursuant to section 21.3 of our Bid Protest Regulations.

Accordingly, since PSS has not indicated any errors of fact or law, the request for reconsideration is denied.

James F. Hinchman
General Counsel